

UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
NAHEED BABAR,

Plaintiff,

-against-

RICARDO MONTALVAN and BOZZUTOS INC.

Defendants.
-----X

DOCKET NO.:

Defendants request Trial by Jury

08 CIV. 7547

JUDGE SEIBEL

NOTICE OF REMOVAL OF ACTION FROM STATE COURT

FILED
U.S. DISTRICT COURT
S.D. OF N.Y. 2008
AUG 27 10 31 AM

(Supreme Court of the State of New York
County of Bronx, Index No.: 306428/08)

LAW OFFICE OF LORI D. FISHMAN
Attorney for Defendants
Ricardo Montalvan and Bozzutos Inc.
303 South Broadway, Suite 435
Tarrytown, NY 10591
(914) 524-5600
File No.: 108220132

FILED
U.S. DISTRICT COURT
S.D. OF N.Y. 2008
AUG 27 10 31 AM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
NAHEED BABAR,

Plaintiff,

(Supreme Court of the
State of New York, County
of Bronx, Index No.: 3062428/08)

-against-

RICARDO MONTALVAN and BOZZUTOS INC.,

Defendants.
-----x

NOTICE OF REMOVAL OF
ACTION FROM STATE COURT
Defendants request Trial By Jury

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

PLEASE TAKE NOTICE THAT, pursuant to the 28 U.S.C. section 1441, defendants,
RICARDO MONTALVAN and BOZZUTOS INC., hereby removes this action from the
Supreme Court of the State of New York, County of Bronx to the United States District Court for
the Southern District of New York. Defendants appears solely for the purpose of removal and
for no other purposes, reserving all other defenses available to them and allege on information
and belief as follows:

1. On August 1, 2008, plaintiff commenced the above-captioned action against
defendants, RICARDO MONTALVAN and BOZZUTOS INC., in the Supreme Court, State of
New York, County of Bronx by filing a Summons and Complaint.

2. On August 21, 2008, the Law Office of Lori D. Fishman first received a copy of
the Summons and Complaint. The actual service dates on all defendants are unknown at this
time. The Summons and Complaint are attached hereto as **Exhibit "A"**.

3. This Notice of Removal is being filed within 30 days after first receipt by this
office of the Summons and Complaint and thus timely file pursuant to 28 U.S.C. Section
1446(b).

4. At the time this Summons and Complaint was filed, defendant, BOZZUTOS, INC.
was and still is a Connecticut Corporation with its principal place of business in Connecticut.

5. At the time this Summons and Complaint was filed defendant, RICARDO MONTALVAN, was a resident of the State of Connecticut.

6. This civil action of which the United States District Court has original jurisdiction pursuant to 28 U.S.C. Section 1332(a) because there is complete diversity of citizenship between plaintiffs and defendants because plaintiffs, upon information and belief, seeks recovery of monetary damages in an amount that exceeds \$75,000.00 exclusive of interest and costs.

7. Defendants, RICARDO MONTALVAN and BOZZUTOS INC. will promptly file a copy of this Notice in Supreme Court of the State of New York, County of Bronx, and will serve a copy of same on all parties in accordance with 28 U.S.C. Section 1446(d).

WHEREFORE, the defendants, RICARDO MONTALVAN and BOZZUTOS INC., gives notice that the above-captioned action commenced against them in the Supreme Court of the State of New York, County of Bronx has been removed to this Court.

DATED: Tarrytown, New York
August 26, 2008

Yours, etc.

LAW OFFICE OF LORLD. FISHMAN

By: 

LOUIS H. LIOTTI
(LHL 1709)

Attorney for Defendants
RICARDO MONTALVAN and
BOZZUTOS INC.
303 South Broadway, Suite 435
Tarrytown, NY 10591
(914) 524-5600
File No.: 108220132

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No.: 306428/08
Date Purchased: 8/1/08

NAHEED BABAR

Plaintiff (s)

[Handwritten signature]

SUMMONS

Plaintiff designates Bronx
as the place of trial.

-against-

The basis of venue is:
Place of Occurrence

RICARDO MONTALVAN AND BOZZUTOS INC.

Defendant (s)

County of Bronx

To the above named Defendants:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorney(s) within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: BROOKLYN, NY
July 31, 2008

[Handwritten signature]

David J. Seidemann
SEIDEMANN & MERMELSTEIN
Attorneys for Plaintiff(s)
NAHEED BABAR
974 East 27th Street
Brooklyn, NY 11210
(718) 692-1013

TO: RICARDO MONTALVAN
90 HEATH STREET
HARTFORD, CT 06410

SERVED THROUGH THE SECRETARY OF STATE AS PER VTL 253

BOZZUTOS INC.
275 SCHOOL HOUSE ROAD
CHESHIRE, CT 06410

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

NAHEED BABAR

Plaintiff (s)

Index No.: 306428/08

VERIFIED COMPLAINT

-against-

RICARDO MONTALVAN AND BOZZUTOS INC.

Defendant (s)

Plaintiff, by her attorneys, **SEIDEMANN & MERMELSTEIN**, complaining of the Defendants, respectfully alleges, upon information and belief, as follows:

1. At all times herein mentioned, Plaintiff **NAHEED BABAR** was, a resident of the County of Putnam, State of New York.
2. At all times herein mentioned, Defendant **RICARDO MONTALVAN** was, and still is, a resident of the State of Connecticut.
3. At all times herein mentioned, Defendant **BOZZUTOS INC.** was, and still is a corporation, transacting business in the State of Connecticut.
4. At all times herein mentioned, Defendant **BOZZUTOS INC.** was the owner of a 1997 Ford truck bearing Connecticut registration number 21715A.
5. At all times hereinafter mentioned, Defendant **RICARDO MONTALVAN** operated the aforementioned motor vehicle.
6. At all times hereinafter mentioned, Defendant **RICARDO MONTALVAN** managed the aforementioned motor vehicle.
7. At all times hereinafter mentioned, Defendant **RICARDO MONTALVAN** maintained the aforementioned motor vehicle.
8. At all times hereinafter mentioned, Defendant **RICARDO MONTALVAN** controlled the aforementioned motor vehicle.
9. At all times hereinafter mentioned, Defendant **BOZZUTOS INC.** managed the aforementioned motor vehicle.

10. At all times hereinafter mentioned, Defendant **BOZZUTOS INC.** maintained the aforementioned motor vehicle.
11. At all times hereinafter mentioned, Defendant **BOZZUTOS INC.** controlled the aforementioned motor vehicle.
12. At all times hereinafter mentioned, Plaintiff **NAHEED BABAR** was the owner and operator of a 2002 Nissan motor vehicle bearing New York State registration number BLV5511.
13. At all times hereinafter mentioned, Throgs Neck Expressway at the intersection with Layton Avenue in Bronx, New York were public roadways and/or thoroughfares.
14. That on August 1, 2005, Defendant **RICARDO MONTALVAN** was operating the aforementioned motor vehicle at the aforementioned location with the permission and consent of its owner **BOZZUTOS INC.**
15. That on August 1, 2005, Plaintiff **NAHEED BABAR** was operating a motor vehicle at the aforementioned location.
16. That on August 1, 2005, the motor vehicle operated by Defendant **RICARDO MONTALVAN** and owned by **BOZZUTOS INC.** came into contact with the motor vehicle operated by Plaintiff **NAHEED BABAR** at the aforementioned location.
17. That as a result of the aforesaid contact, Plaintiff **NAHEED BABAR** was injured.
18. That the aforesaid occurrence was caused wholly and solely by reason of the negligence of the Defendants without any fault or negligence on the part of the Plaintiff contributing thereto.
19. That Defendants were negligent, careless and reckless in the ownership, operation, management, maintenance, supervision, use and control of the aforesaid vehicle and the Defendants were otherwise negligent, careless and reckless in the premises.
20. That by reason of the foregoing, Plaintiff **NAHEED BABAR** sustained severe and permanent personal injuries; and Plaintiff **NAHEED BABAR** was otherwise damaged.
21. That Plaintiff **NAHEED BABAR** sustained serious injuries as defined in Subdivision d of §5102 of the Insurance Law-Recodification.
22. That Plaintiff **NAHEED BABAR** sustained serious injuries and economic loss greater

than basic economic loss as to satisfy the exceptions of §5104 of the Insurance Law.

23. That Plaintiff **NAHEED BABAR** is not seeking to recover any damages for which Plaintiff has been reimbursed by no-fault insurance and/or for which no-fault insurance is obligated to reimburse Plaintiff. Plaintiff is only seeking to recover those damages not recoverable through no-fault insurance under the facts and circumstances in this action.
24. That this action falls within one or more of the exceptions as set forth in CPLR §1602.
25. That by reason of the foregoing, Plaintiff **NAHEED BABAR** has been damaged in the amount of FIVE MILLION (\$5,000,000.00) DOLLARS.

WHEREFORE, Plaintiff **NAHEED BABAR** demands judgment against the Defendants in the amount of FIVE MILLION (\$5,000,000.00) DOLLARS, together with the costs and disbursements of this action.

Yours, etc.

David J. Seidemann
SEIDEMANN & MERMELSTEIN
Attorneys for Plaintiff(s)
NAHEED BABAR
974 East 27th Street
Brooklyn, NY 11210
(718) 692-1013

ATTORNEY'S VERIFICATION

DAVID J. SEIDEMANN, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:


I am an attorney at **SEIDEMANN & MERMELSTEIN**, attorneys of record for Plaintiff(s), **NAHEED BABAR**, in the action within. I have read the annexed

VERIFIED COMPLAINT

and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

The reason this verification is made by me and not Plaintiff(s) is that Plaintiff(s) is/are not presently in the county wherein the attorneys for the Plaintiff(s) maintain their offices.

DATED: Brooklyn, NY
July 31, 2008



David J. Seidemann, Esq.

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

NAHEED BABAR,

Plaintiff,

-against-

RICARDO MONTALVAN AND BOZZUTOS INC.

Defendant.

SUMMONS AND VERFIED COMPLAINT

**SEIDEMANN & MERMELSTEIN
Attorneys for Plaintiff
974 East 27th Street
Brooklyn, NY 11210
(718) 692-1013**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
NAHEED BABAR,

Plaintiff,

-against-
RICARDO MONTALVAN and BOZZUTOS INC.,

Defendants.
-----X

NOTICE OF REMOVAL OF ACTION FROM STATE COURT

LAW OFFICE OF LORI D. FISHMAN

Attorney for Defendants

RICARDO MONTALVAN and BOZZUTOS INC.

303 South Broadway, Suite 435

Tarrytown, N.Y. 10591

(914) 524-5600

By: 

Louis M. Liotti (LHL 1709)

TO:

Service of a copy of the
within is hereby admitted:

DATED: _____

Attorney(s) for

PLEASE TAKE NOTICE:

NOTICE OF ENTRY

that the within a (certified) true copy of an
duly entered in the office of the clerk of the within named court on

NOTICE OF SETTLEMENT

that an _____, of which the within is a true copy, will be presented for settlement
to the Hon. _____, one of the judges of the within named Court, at
, on _____, at _____.

DATED:

Yours, etc.,
LAW OFFICE OF LORI D. FISHMAN